

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 GERALD WILLIAMS,

4 Plaintiff

5 v.

6 ESURANCE, et al.,

7 Defendants

Case No.: 2:18-cv-01168-APG-PAL

**Order (1) Denying Motion to Dismiss and
(2) Directing the Plaintiff to Provide Proof
of Timely Service and Certificate of
Interested Parties**

[ECF No. 9]

8 Defendants Esurance, Allstate Insurance Company, Xaeng Vongvixay, and Douangmala
9 Vongvixay move to dismiss plaintiff Gerald Williams' complaint for failure to timely serve them
10 with the summons and complaint. ECF No. 9. I deny that motion as premature because at the
11 time the defendants moved to dismiss, Williams' application to proceed in forma pauperis had
12 not yet been ruled on and his complaint had not been screened, so no summonses had been
13 issued. *See* ECF No. 12.

14 Williams thereafter paid the \$400 filing fee. ECF No. 14. Magistrate Judge Leen then
15 ordered the clerk of court to file the complaint and issue the summonses. ECF No. 15. Because
16 the complaint was filed on March 11, 2019, Williams had until June 9, 2019 to file proof of
17 service on the defendants. Fed. R. Civ. P. 4(m). To date, Williams has not filed proof of service.
18 He also has not complied with Judge Leen's order for him to file a certificate of interested parties
19 by May 7, 2019. ECF No. 17.

20 Federal Rule of Civil Procedure 4(m) provides, in part, as follows:

21 If a defendant is not served within 90 days after the complaint is filed, the court—
22 on motion or on its own after notice to the plaintiff—must dismiss the action
23 without prejudice against that defendant or order that service be made within a
 specified time. But if the plaintiff shows good cause for the failure, the court
 must extend the time for service for an appropriate period.

1 To date, Williams has not filed proof of service as to any of the defendants. I therefore notify
2 Williams that this action may be dismissed without prejudice unless proof of service is filed with
3 the clerk of court by July 19, 2019. Service on each defendant must have taken place prior to
4 June 9, 2019, or Williams must show good cause as to why service was not made by that date.

5 IT IS THEREFORE ORDERED the defendants' motion to dismiss (**ECF No. 9**) is
6 **DENIED without prejudice as premature.**

7 IT IS FURTHER ORDERED that on or before July 19, 2019, plaintiff Gerald Williams
8 shall file a certificate of interested parties.

9 IT IS FURTHER ORDERED that on or before July 19, 2019, plaintiff Gerald Williams
10 shall file proof of timely service as to each defendant. Failure to provide proof service as to any
11 or all of the defendants may result in dismissal of this action without prejudice as to the unserved
12 defendants.

13 DATED this 24th day of June, 2019.

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16 ANDREW P. GORDON
17 UNITED STATES DISTRICT JUDGE
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